

APPEAL NO. 033127
FILED JANUARY 12, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on November 5, 2003. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, did not have disability, and did not report the claimed injury to his employer within 30 days. The claimant appeals these determinations. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

Whether the claimant sustained a compensable injury was a factual question for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness, including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). The hearing officer was obviously not persuaded by the evidence that the claimant met his burden of proving that he was injured in the course and scope of his employment on _____. Nothing in our review of the record indicates that the hearing officer's compensability determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). As the existence of a compensable injury is a prerequisite to a finding of disability (Section 401.011(16)), we similarly perceive no error in the determination that the claimant did not have disability.

In his appeal, the claimant emphasizes arguments supporting his position that he gave notice of a work-related injury within 30 days of the injury. We would point out that because the hearing officer determined that the claimant did not sustain a work-related injury, the timely notice determination is of no consequence. However, there is evidence supporting the hearing officer's determination that the claimant did not give timely notice of the injury and did not have good cause for his failure to do so.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **PROTECTIVE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**VAN WAGNER COMPANY
1100 JUPITER ROAD, SUITE 121
PLANO, TEXAS 75074.**

Chris Cowan
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Edward Vilano
Appeals Judge